

Dayton v. United States.

to quiet the title; but as this case was afterwards discontinued, it is not material further to refer to it.

Upon the whole, after the best consideration which we have been able to give the case, we are of opinion that the decree of the court below should be

Reversed and the cause remitted, with directions to enter a decree for the complainant Smith, and that Orton release all claim or interest to lots 7 and 8 in controversy, and be enjoined from setting up any right or title to the same.

Mr. James S. Brown for appellant. *Mr. H. S. Orton* and *Mr. E. Mariner* for appellee.

WASHINGTON COUNTY v. DURANT.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF IOWA.

No. 105. December Term, 1865. — Decided February 26, 1866.

An appeal allowed or a writ of error served is essential to the exercise of the appellate jurisdiction of this court.

THE case is stated in the opinion.

MR. CHIEF JUSTICE CHASE delivered the opinion of the court.

This cause was submitted on a printed argument for the defendant in error. Upon looking into the record, we find that it has been brought into this court by agreement of parties, and without the issuing or service of a writ of error. We think that an appeal allowed or a writ of error served, is essential to the exercise of the appellate jurisdiction of this court.

The appeal in this cause is therefore *Dismissed.*

Mr. Charles Mason for plaintiff in error. *Mr. James Grant* for defendant in error.

DAYTON, CLAIMANT OF THE SCHOONER MONTEREY AND CARGO v. UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

No. 144. December Term, 1865. — Decided February 26, 1866.

A decree in admiralty for the condemnation of a vessel is not final if the libel claims the condemnation of the cargo as well, and the cargo has been delivered to the respondents at an appraised value, and the money deposited with the register.